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**Mark David Goss**  
Chairman

**Teresa J. Hill**  
Vice Chairman

**Gregory Coker**  
Commissioner

October 20, 2005

CERTIFICATE OF SERVICE

RE: Case No. 2005-00397  
Black Mountain Utility District

I, Beth O'Donnell, Executive Director of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the addressee by U.S. Mail on October 20, 2005.

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Executive Director

BOD/je  
Enclosure

Honorable Sidney B Douglass  
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Vickie Rhymer  
Chairwoman of the Board  
Black Mountain Utility District  
609 Four Mile Road  
Baxter, KY 40806-8437

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BLACK MOUNTAIN UTILITY	)	
DISTRICT OF HARLAN COUNTY, KENTUCKY	)	CASE NO.
FOR A CERTIFICATE OF PUBLIC CONVENIENCE	)	2005-00397
AND NECESSITY TO CONSTRUCT A WATER	)	
LINE PROJECT	)	

ORDER

On September 20, 2005, Black Mountain Utility District ("Black Mountain") applied for a Certificate of Public Convenience and Necessity to construct a proposed water improvements project at an estimated cost of \$1,535,000. This project consists of the installation of 2,575 linear feet of polyvinyl chloride ("PVC") pipe, a pumping station, and a 20,000-gallon water storage tank. The proposed project will be funded through grants from the Appalachian Regional Commission, Coal Severance Fund, and the U.S. Department of Housing and Urban Development. Black Mountain does not propose to issue any evidences of indebtedness or to adjust its rates to finance the proposed project.

In its 2005 Annual session, the Kentucky General Assembly enacted legislation that exempts certain water improvement projects of water districts and water associations from the requirement of obtaining a Certificate of Public Convenience and Necessity. The Act provides:

A water district created pursuant to KRS Chapter 74 and a water association created pursuant to KRS Chapter 273 that undertakes a waterline extension or improvement project shall not be required to obtain a certificate of public convenience and necessity pursuant to KRS 278.020(1) if

the water district or water association is a Class A or B utility as defined in the Uniform System of Accounts established by the Public Service Commission, pursuant to KRS 278.220, as the system of accounts prescribed for utilities in Kentucky, and either: (a) The water line extension or improvement project will not cost in excess of \$500,000; or (b) The water district or water association will not, as a result of the water line extension or improvement project, incur obligations requiring Public Service Commission approval pursuant to KRS 278.300. In either case, the water district or water association shall not, as a result of the water line extension or improvement project, increase rates to its customers.

2005 Ky. Acts Chapter 173.’

Based upon our review of this Act and Black Mountain’s Application and being otherwise sufficiently advised, the Commission finds that:

1. Black Mountain had annual revenues of \$720,469 in calendar year 2004’ and is therefore a Class B water utility.<sup>3</sup>
2. Black Mountain will not, as a result of the proposed improvement project, incur obligations that will require Commission approval pursuant to KRS 278.300.
3. Black Mountain will not, as a result of the proposed improvement project, increase its rates for water service to its customers.

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<sup>1</sup> This Act became effective March 22, 2005 and will expire June 30, 2006.

<sup>2</sup> Annual Report of Black Mountain Utility District to the Public Service Commission of Kentucky for the year ended December 31, 2004 at 27.

<sup>3</sup> The Kentucky Public Service Commission’s Uniform System of Accounts defines a Class B water utility as a utility “having annual water operating revenues of \$250,000 or more but less than \$750,000.” Uniform System of Accounts for Class A/B Water Districts and Associations at 14 (2002) (found at <http://psc.ky.gov/agencies/psc/forms/usoa/0700ab02.pdf>).

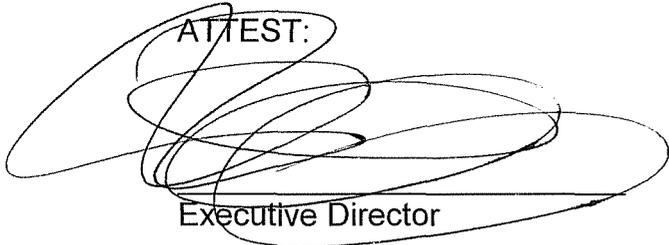
4. The proposed improvement project is exempt from any requirement to obtain a Certificate of Public Convenience and Necessity.

IT IS THEREFORE ORDERED that Black Mountain's application is denied as moot.

Done at Frankfort, Kentucky, this 20th day of October, 2005.

By the Commission

ATTEST:



Executive Director

Case No. 2005-00397